

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, APRIL 10, 1997

Acting Chairman Ludwig called the meeting to order at 1:35 p.m. at the Inn at Semiahmoo, in Blaine, Washington.

MEMBERS PRESENT: CURTIS LUDWIG, Vice Chair; LIZ MCLAUGHLIN, and MARSHALL FORREST.

OTHERS PRESENT: FRANK MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
SHERRI WINSLOW, Assistant Director, Field Operations;
CALLY CASS-HEALY, Assistant Director, Licensing;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
JONATHAN McCOY, Assistant Attorney General;
GARY PETERSON, Financial Investigations Unit;
and SUSAN GREEN, Executive Assistant.

Acting Chairman Ludwig introduced the Washington State Gambling Commission (WSCG) staff and Commission members present. He recognized Marshall Forrest, a former superior court judge and former court of appeals judge, as the newest commissioner. This is his first meeting. He said the house raffle will be taken first so the presenter can make it to the airport on time.

REQUEST FOR HOUSE RAFFLE

BIG BROTHERS/BIG SISTERS OF PIERCE COUNTY

Sylvia Anderson, Big Brothers/Big Sisters of Pierce County, said this organization would like to exceed the \$40,000 prize limit to conduct a house raffle from June through November of this year. The organization has entered into a contract with the Master Builders Association of Pierce County to raffle a house from their Street of Dreams, which runs August 28-September 28, 1997. The organization has been working on having a house raffle project for a number of years. House raffles have been profitable fund raisers across the country, but this will be the first one in the State of Washington. The organization is going to sell the tickets for \$25 each and is modeling this raffle after a house raffle done in Edmonton, Canada, where they have had 15 house raffles; two each year. Big Brothers/Big Sisters of Pierce County has projected a conservative budget as the gross revenue. The board of directors has looked at the possibility of what will happen if not enough tickets are sold and how that will impact the organization. The organization is going to carry the construction loan on the house instead of having the builder control the construction loan. The organization feels pretty confident that it can handle whatever situation may occur.

Director Miller said the organization has worked with a number of the staff in the WSGC Southwest Regional office regarding this house raffle. The reason this has been brought before the Commission is because it takes Commission approval to go above \$40,000 for a raffle prize. The WSGC has approved house raffles in the past, but this is the first one to actually go forward. The staff supports this application and encourages the Commission's approval. The organization has done its homework and seems to be protecting itself in taking the risk. The staff hopes this raffle will be very successful.

Acting Chairman Ludwig said his understanding is that only a charitable organization can conduct this type of raffle. **Director Miller** said that is correct, only nonprofit/charitable organizations can conduct raffles. **Acting Chairman Ludwig** asked if there were any questions.

Commissioner McLaughlin asked what happens if the organization cannot cover the debt; **Ms. Anderson** said the organization has a couple of options. First, Washington Mutual is the mortgage company making the construction loan to the organization. If the organization had to buy the house, it would cost approximately \$1,300 to \$1,400 per month to carry the loan. At that point, they would sell the house and pay off the debt. The cost of the house has been reduced because they have received donated concrete, lumber, siding, roofing and landscaping. The cost to the organization is lower than it would be going out and purchasing the house. The house is valued at \$300,000 dollars.

Acting Chairman Ludwig asked for clarification as to under what circumstances would they sell the house. **Ms. Anderson** said in the worst case scenario if the organization only sold 1,000 tickets, then the organization would refund the ticket money, which has never happened anywhere before with a house raffle that she knows of. The organization must sell at least 5,000 tickets. They feel this kind of raffle will become more and more popular. The worst thing to do is refund money from the sale of tickets and say it did not work. **Director Miller** asked what the time frame is; **Ms. Anderson** said from June 1 through November 1, 1997. **Mr. Miller** said that is quite a long time period for a promotion.

Commissioner McLaughlin asked if she knows of anyone who is planning to buy a large number of tickets, say \$50,000 worth; **Ms. Anderson** said yes, she has heard rumors but nothing for sure. The organization needs permission before preceding with any type of serious marketing. They have not heard of any negative feedback, they are just waiting to see if companies come through with their promises. She invited the Commission to come and see the house and said it is gorgeous.

Acting Chairman Ludwig asked if their advertising and the tickets themselves tell the purchaser that if the minimum number of tickets necessary is not reached, then the money will be refunded. **Ms. Anderson** said yes, and they will inform the participant of the tax liability. The winner will be able to take care of this through Washington Mutual. The bank will give the winner the option of a first mortgage for the tax liability which would be around \$70,000.

Commissioner McLaughlin asked if the organization is going to sell outside of Pierce County; **Ms. Anderson** said yes, they will be selling outside of that area.

Director Miller said during the last legislative session they passed bill to raise the minimum cost of raffle tickets from \$5 to \$25, which makes the activity much more functional. This organization has done its homework and the WSGC staff will monitor the activity very closely since it is the first raffle of this kind in the state.

Commissioner McLaughlin moved for approval of this house raffle; **Commissioner Forrest** seconded the motion. **Acting Chairman Ludwig** asked if there were any comments or questions; no one came forward. *Vote taken; motion carried with three aye votes.*

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Acting Chairman Ludwig asked about the addition of the manufacturer ZDI Gaming; **Ms. Tellefson** said the information can be found in the supplemental handout packet number two.

Acting Chairman Ludwig said that, since there are actually two months worth of license approvals, changes, withdrawals, and tribal certifications, two votes will be taken.

Commissioner McLaughlin moved for approval of the March 1997 packet of new licenses, changes, withdrawals and tribal certifications; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes*

Commissioner McLaughlin moved for approval of the April 1997 packet of new licenses, changes, withdrawals and tribal certifications; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

MANUFACTURER LICENSE APPLICATION

ZDI GAMING, INC._

Gary Peterson, special agent, WSGC Financial Investigations Unit, gave the presentation. He said ZDI Gaming, Inc. has applied for a Class "B" manufacturing license in the state of Washington to produce progressive pull tab systems. ZDI Gaming, Inc. is currently licensed as a Class "F" Distributor. Their initial license was issued on June 3, 1985. The company is located in Vancouver, Washington. Currently, their president and chairman of the board is Mr. Donald R. Grothe. The company began as a sole proprietorship, owned by Donald and Judith Grothe. The articles of incorporation, for a new corporation, were filed April 8, 1991. Every year since 1992, the date of the corporation's first board meeting, Donald and Judith Grothe have gifted a portion of the original \$1,000 shares of stock to their children and to Jay Gerow, who is also a relative. On November 1, 1995, the corporation changed its name to ZDI Gaming, Inc. The corporation's shares are not publicly traded. Currently, Donald and Judith Grothe own 17.2 percent of the 1,000 shares that are outstanding. Curtis Grothe, Melanie Keser, Geoff Grothe, Jay Gerow own 20.7 percent of the total outstanding 1,000 shares.

ZDI Gaming, Inc. currently has ten representatives who will market the progressive pull tab systems to operators in the state. The company submitted an application for a manufacturer's license on February 19, 1997. They applied for the patent of a progressive pull tab system and the pull tabs, which are an integral part of this system, in August, 1996. They anticipate receiving final approval for the patent soon. Field Operations agents performed a review of the progressive pull tab system the applicant intends to market in Washington State. The progressive pull tab system involves the networking of pull tab dispensing devices to a central computer that tracks the sale of pull tabs and accrues the progressive jackpot prize. The pull tab dispensing devices used in this system are manufactured by Over & Under International, Inc., which is licensed as a manufacturer by the State of Washington. The applicant, ZDI Gaming, will modify the pull tab dispensing devices and integrate them into a progressive pull tab system. Agents found this progressive pull tab system to be in compliance with applicable rules and recommended that it be approved for sale in Washington State.

On March 17, 1997, Agent Gary Peterson began a financial and criminal background review. Procedures performed included a review of the corporation's stock and patent ownership; articles of incorporation, bylaws and amendments; and a review of the applicant's current license information. He also verified that the applicant did not have any sub-contracting agreements for the manufacture of the pull tab dispensing device or the pull tabs used in their system. As of the date of this report, pull tab tickets and the related flares used in ZDI Gaming's progressive pull tab systems were not available for review. The applicant was informed that a review of these items must be completed before they will be allowed to sell their progressive pull tab system in Washington State.

Based on the review performed, there was no indication of hidden ownership, unlicensed patent holders, or the manufacture of system components by unlicensed entities. The staff recommends licensure of ZDI Gaming, Inc a manufacturer.

Commissioner McLaughlin asked where their office is located; **Mr. Peterson** said Vancouver, Washington. **Commissioner McLaughlin** said the handout packet states a location in Everett. **Mr. Peterson** said no, that have offices in Spokane and Vancouver.

Commissioner Forrest asked about the changes that will be made to pull tab dispensing devices. **Mr. Peterson** answered that the company will be taking regular pull tab dispensing devices and adding an electronic device that looks like a box and automatically dispenses pull tab tickets. A certain percentage of every dollar is put into the machine and is accrued into the progressive jackpot that is displayed in the machines. Winnings are up to \$5,000.

Director Miller said it's actually above that now. They have incorporated part of the software as well so it tracks the play. Another way to put this is it like banks of machines in Nevada where the money rolls on top of the group of machines that play for the same jackpot. The change from a regular pull tab machine is with the software that integrates them together offering one large jackpot for all the machines. It is, in fact, a local area network.

Acting Chairman Ludwig asked if there is anybody present from ZDI Gaming, Inc. today. **Mr. Peterson** said Jay Gerow and Don Grothe are present.

Commissioner Forrest moved for approval of a manufacturing license for ZDI Gaming; **Commissioner McLaughlin** seconded the motion. *Vote carried; motion carried with three aye votes.*

REVIEW OF FRIDAY'S AGENDA

Carrie Tellefson said there is one staff report on the agenda tomorrow, which is a brief update of gaming legislation. There are nine rules up for final action, a commercial amusement game package and a couple of commercial amusement game petitions. Item six in Friday's agenda, the petition to amend the raffle rules, has been withdrawn at the request of the petitioner. For discussion on Friday are two rules on the sale of raffle tickets by non-members, which has been redrafted at the request of the commissioners at the last meeting. Finally, the progressive pull tab rule, which was filed as an emergency rule, continues on the agenda for further discussion. There are quite a few rules up for discussion and possible filing. Item nine says progressive pull tab rules but it should say pull tab rules. This is a set of rules and repealers for housekeeping purposes. Item ten is net income variance procedures to implement the net income program approved in January of this year. Item 11 addresses exclusivity agreements and exceptions to the rule. There are four card room contracts up for approval tomorrow. In addition, the staff asks that two more card room contracts be added. One is for the Hideaway and the other is for Cliff's Tavern. These are added to the handout packet but should also be added to item 12 for Friday's agenda. Item 13 has been cancelled for tomorrow and was listed on the agenda as a possible Phase II review for the Puyallup Tribe of Indians.

Acting Chairman Ludwig asked if the other commissioners have any objections to adding the two other card room contracts to the agenda; no one objected. He said those would be added to Friday's agenda.

QUALIFICATION REVIEWS

Acting Chairman Ludwig asked if the Qualification Reviews can be voted on as a whole or individually.

Director Miller said they can be taken as a whole. For the new commissioner, Judge Marshall Forrest, he gave an overview of the process, which has been in effect since 1986. The qualification review of an organization determines whether they are qualified to conduct gambling in the state. The staff looks at performance, qualification under statute, and salaries. When there is a major concern with the game, it goes through the administrative process rather than coming before the Commission. The review is a tool that gives the staff an overview of the organization's performance and whether they are abiding by state gambling laws.

Acting Chairman Ludwig requested that the Ferndale Band Boosters be taken first, since they have been in the news lately. **Ms. Tellefson** said Gary Peterson will be making the presentations to the Commissioners.

FERNDALE BAND BOOSTERS, Ferndale

Mr. Peterson said this organization is located in Ferndale, Washington and was formed in 1976. They have been licensed since 1983, and the organization has 100 active members. The mission of the Ferndale Band Boosters is to foster interest in and provide financial support for the Ferndale High School Band.

The organization's primary activity is the support and assistance of the Ferndale High School Band. During the fiscal year ended June 30, 1996, Ferndale Band Boosters provided chaperons and manpower for the 170-member band competing in four major northwest marching band competitions. The Ferndale High School Winterguard competed in six northwest contests. In their seventh national competition, the Ferndale Colorguard placed 12th out of 115 teams. The organization provided funds for supplies, materials, instruments and teaching staff to help individual students improve their musical skills. Based on the review, the staff recommends Ferndale Band

Boosters be approved as an educational organization and authorized to conduct gambling activities in the state of Washington.

Mr. Peterson asked if anybody had any questions on this organization.

Acting Chairman Ludwig said the one thing that caught his and Commissioner McLaughlin's eye is the deficiency for 1996. He said they both feel there is probably a good explanation that is not shown on the financial statement, because the financial page shows the organization lost \$87,000. **Mr. Peterson** said for fiscal year 1996, the organization had net loss of \$87,738; however, the prior year the organization gained \$19,719. **Director Miller** asked if any staff members present know the reason for the loss; **Ms. Winslow** said casino opened, which had a huge affect on this organization. **Director Miller** said there was a test, the moratorium, which gave them the one year reprieve on net income. He asked that they take note of the positive changes in the last two quarters, which is the reason why the staff has recommended them for approval.

Commissioner Forrest asked if they wind up owing people money, or do they pay people when there is a loss. **Ms. Winslow** said that organizations are allowed to build up a limited amount of reserve funds for this purpose. The organization is depleting their reserve currently. **Commissioner Forrest** said he would like to see a little note as to why there is a loss right on the report.

Acting Chairman Ludwig asked if the staff anticipates, given the history of this organization, adjusting their expenses to live within their income. **Mr. Peterson** said he asked the bingo manager those very questions, and she said the organization has already reduced its overhead. They expect less of a loss and will have to adjust their game. They are not going to be able to operate like they have been in the past. He believes that is true for several bingo licensees.

Commissioner McLaughlin asked if they're pretty high on their prize pay out. **Mr. Peterson** said attendance is dropping because of the competition. But in order to keep clientele, the organization's prize pay out isn't dropping in the same proportionate level. The major concern is that if the organization lowers the prize pay out they lose clientele. This scenario will hurt them even more.

Director Miller said that, in 1996, they made close to \$98,000 on bingo and pull tabs. As a matter of fact, they made money from their activities. When looking at the amount spent on their programs, that is where they lost money. To clarify, they lost money by paying for their programs. **Mr. Bishop** said they might have to decrease their program expenses. They spent \$220,000 on their programs.

Acting Chairman Ludwig reminded the Commission this was discussed last fall under the moratorium. And this morning's news said the band is leaving for the nation's Capitol. **Director Miller** agreed and said organizations have made money and the staff wants to point that out. **Acting Chairman Ludwig** pointed out that any money they make on gambling goes toward supporting this very successful program. **Director Miller** said organizations have the right to spend as much as they need to fund programs. That is what gambling activities have done for them. The staff hopes they will be successful in the future. **Commissioner McLaughlin** asked how the staff can say they make \$100,000 and made a deficiency over expenses. **Director Miller** said it's on their gambling and said for their income for bingo and punchboards/pull tabs, the organization made approximately \$114,000, total. This revenue goes into their fund and their entire program cost them \$220,000.

Commissioner Forrest moved to adopt the staff's recommendation to approve this organization as a educational organization and authorized to conduct gambling activities in the state of Washington. **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.*

SEATTLE JAYCEES, Seattle

Mr. Peterson said this organization is located in Seattle, Washington, and was formed in 1931. Licensed since 1975, the organization has 417 active members. They have a full time executive director and 2 employees (1.2 FTE's) who provide program services in Seattle. They have a program that members, ranging from ages 21-39, receive leadership and management training while working in a volunteer setting for community service. During the past year, the organization was responsible for developing over 150 community projects that had a positive impact on increasing the quality of life in the Seattle area. The organization's most noteworthy project Kids Care

Identification program which provided parents with standardized personalized identification documents for their children. The program was developed to assist authorities with locating missing children. Based on this review, the staff's recommends Seattle Jaycees be approved as a civic organization and authorized to conduct gambling activities in the state of Washington.

Commissioner McLaughlin asked what the reason is for their decline in their bingo and pull tabs; **Mr. Peterson** said the organization says it's due to the decline in attendance due to expansion of Indian gambling and bingo. **Director Miller** said once again this organization has made over \$140,000 in gambling. In addition, all the money is donated. They still gave a lot of money to their programs. Bingo income is down statewide and because of the competition for the dollar, many of the games are feeling it right now. **Mr. Peterson** said it is primarily due to bingo. In 1995, they had \$316,000 in net income from bingo and was down to \$120,000 this year. **Commissioner McLaughlin** asked if the opening of the horse racing track had any affect on this bingo game; **Director Miller** said that anytime there is another new segment of the gambling market, it affects existing games.

Commissioner Forrest asked how the staff determines if the group has excessive reserves and if there is a formula. **Mr. Peterson** said the staff does have a formula. For instance, Seattle Jaycees has a \$2 million endowment fund for future program services. Currently there is \$904,574 set aside in a endowment fund, but they do have an exemption for this from the director.

Commissioner McLaughlin moved to adopt the staff's recommendation to approve this organization as a civic organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

NORTHWEST AMATEUR HOCKEY ASSOCIATION, Mountlake Terrace

Mr. Peterson pointed out a correction in appendix B. The salary for Rick Beadle should be changed to \$47,231 for annual salary and benefits are \$8,082, for total compensation of \$55,313.

Mr. Peterson said this organization was founded in 1978 and has been licensed since 1979. There are currently 80 active members. They maintain a full time administrative office in Mountlake Terrace, which they share with Seattle Junior Hockey Association. Management and coaching officials coordinate program activities for three travel teams and a local senior league. They have a new team of Ironmen is comprised of members 15-17 years of age, who participate in the midget triple A division. Another team is comprised of ages 18-20 who could no longer play on the Ironman team due to age restrictions. They also have another group called the Seattle Indians, which consists of ages 18 and older, who participate in the British Columbia Amateur Hockey Association. Their senior division has increased its players by more than 20 percent over the last year. In addition, the organization is looking at the possibility of adding a women's division in 1997.

Based on the review, the staff recommends approval as an athletic organization and authorized to conduct gambling activities in the state of Washington.

Acting Chairman Ludwig noted that, in 1995, they had an overall program loss and had a loss in 1996, but then took some steps to reduce that. Even though their net bingo income was down, it was partly made up in other gambling income, which would have been pull tabs. **Mr. Peterson** said they have also reduced their expenditures, including a lower salary for new president. **Acting Chairman Ludwig** asked if it's same overall problem with competition. **Director Miller** said there is a very tough market in their area and it is competition from other charitable games as well as tribal operations that have opened.

Commissioner McLaughlin moved for approval; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

SEATTLE JUNIOR HOCKEY, Mountlake Terrace

Acting Chairman Ludwig said the next section is a group V licensee and asked for someone to explain the difference between group IV and V for Commissioner Forrest. **Ms. Cass-Healy** said the difference is in the level of combined gross receipts. There are different levels of review as the groups get higher.

Director Miller said this is the largest charitable bingo game in the state. Group V is the highest classification in the state.

Mr. Peterson said John Beadle, who is the bingo manager, is here today as a representative of this organization. He said this organization was formed in 1974. The mission of Seattle Junior Hockey Association is to encourage and promote the growth of amateur hockey and other youth related activities in accordance with accepted youth movement objectives. The organization has been licensed since 1976 and has 40 active members. The association staff coordinates the activities of six major athletic clubs. In order to meet the goals of their sports program, the association maintains a state-of-the-art skating facility, the Olympic View Ice Arena, jointly owned with Seattle Skating Club under the corporate name of Washington Ice Skating Association.

The organization provided \$18,984 to a college scholarship program for the Northwest Americans Hockey League, which benefited nine hockey players. In addition, the organization made cash contributions to various non-profit organizations.

Based on the review, the staff recommends that Seattle Junior Hockey Association be approved as an athletic organization and authorized to conduct gambling activities in the state of Washington.

Acting Chairman Ludwig noted that this organization also had an overall program operational deficiency of \$250,000 in 1995, which was reduced down to less than \$19,000. He asked if that means they increased the income as well as cut expenses.

John Beadle, Seattle Junior Hockey, said that three years ago, their net profit was \$400,000 more than it is today. Although they stabilized during the last fiscal year, they would be a little farther ahead, but they had to deal with inclement weather and a power outage, and during this fiscal year, a fire. Even considering these obstacles, they are maintaining a status quo. They had loss of earnings during their closure period this year due to the fire, which was made up by the insurance company. They had to make significant changes due to the competition in the area for the entertainment dollars. For example, one assistant manager position was eliminated. Where they see a deficiency for the year, that's really not a cash-flow deficiency. There is a paper loss; the depreciation alone is considered a loss.

Commissioner Forrest said he noticed a Rick Beadle with the other organization and asked if they are related. **Mr. Beadle** said Rick is his son.

Director Miller noted that this organization's bingo game, for three operations per week, netted over a million dollars in gaming. They also have built a world class ice arena that is used by several organizations. It is a landmark to the industry and is Olympic sized. **Mr. Beadle** said it is one of only four nationwide and it opened April 1, 1994. They also purchased an ice arena in Lynnwood, the Sno-King Ice Arena, which they bought for \$1.9 million out of bankruptcy court in 1989. Their current debt on it is \$800,000.

Commissioner McLaughlin said she thought they had the largest revenue for pull tabs in the state. **Mr. Beadle** said yes, they have had the largest bingo game in the state since 1986. He said that, excluding the Indian reservation games, he doesn't know of a bigger bingo game in the United States.

Commissioner Forrest moved for approval of this organization; **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.*

Acting Chairman Ludwig called for the executive session to discuss pending investigations and litigation. He said there would be no further public action today and adjourned the meeting.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, APRIL 11, 1997

Acting Chairman Ludwig called the meeting to order at 9:30 a.m. at the Inn at Semiahmoo, in Blaine, Washington. He said that Chairman Heavey was unable to attend today's meeting, so he will act as chairman again today. He introduced the WSGC the staff and Commission members at the head table. He welcomed Judge Marshall Forrest as the newest commissioner and said he resides in Bellingham.

MEMBERS PRESENT: CURTIS LUDWIG, Vice Chair; LIZ McLAUGHLIN, and MARSHALL FORREST

OTHERS PRESENT: FRANK L. MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
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CALLY CASS-HEALY, Assistant Director, Licensing;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
JONATHAN McCOY, Assistant Attorney General;
and SUSAN GREEN, Executive Assistant.

APPROVAL OF THE MINUTES FROM THE FEBRUARY 13-14, 1997, MEETINGS

Commissioner McLaughlin moved to accept the minutes from the February 13-14, 1997, Commission meetings in Olympia, Washington, as set forth in the agenda packet; **Acting Chairman Ludwig** seconded the motion. *Vote taken, motion carried with two aye votes (Commissioner Forrest abstained from voting since he did not attend).*

STAFF REPORTS

Legislative Session/Gambling Bills

Ms. Tellefson gave an update on bills that have passed or that are still alive in the Legislature. In handout packet number two, there is a summary of the bills.

House Bill 1317, regarding amusement games, allows wagering limits of up to \$1 and prizes of up to \$500 as long as children are not playing. This is still alive and is in Rules.

HB 1364, which is an agency-request bill, amends the seizure and forfeiture statute, ensures that when gambling devices are seized, the owners have a process. This bill has passed and it is on its way to the Governor.

HB 1368, fund raising events, allows the organizations to make a little bit more money and to hire employees who are not members to help with the FRE. **Commissioner McLaughlin** asked if this is the same bill that allows non-members to sell tickets. **Ms. Tellefson** said that provision is in a rule that is before the Commission and not in a bill.

HB 1404 would allow for \$1 pull tabs and would change the tax structure. There was a substitute bill that passed out of the Senate Commerce and Labor Committee that still has a \$1 pull tab, and the tax basis for charitable and non-profit organizations is up to 10 percent of gross receipts less prizes; for commercial stimulant operators would be on a local option now and would be 5 percent of gross receipts or up to 10 percent of gross receipts less prizes. This was discussed yesterday at the study group meetings.

HB 1405, charitable bingo games, would allow bona charitable non-profit organizations to join together to operate their bingo games as satellite games in order to offer higher prizes. They would still have to offer the game on

their premises. This bill is presently in rules.

SB 5034 Changes the number of members required for a charitable non-profit organization to be eligible for a gambling license. It was initially written to reduce the required number from 15 to 9; however, it was amended out of committee to require 7 members.

SSB 5265 would change the approval process for compacts and compact amendments. Currently, the compacts go to the Legislature for comment and to the Commission for the actual vote. The Legislature did not have a vote except for through the ex officio members who sit on the Commission. This bill would require Senate approval of compacts and amendments. This bill is currently in House Rules. **Director Miller** said the staff has testified against this bill. At the last hearing, he testified against the bill as a matter of policy and told them that if this bill were to pass, there would most likely not be another tribal-state gaming compact in the state of Washington. It would be difficult to believe the Senate would take a vote on a compact, given the current political situation surrounding this issue. He said he encouraged the Senate to take over the negotiations process as well. The House passed the bill out of committee and into Rules as a courtesy, but he has been assured that it will not go any further at this time. This is a very controversial bill.

Acting Chairman Ludwig asked if the tribes testified against this bill; **Director Miller** said yes, very much so. The Governor has also expressed concern about this bill. **Acting Chairman Ludwig** said he remembers reading early copies of this legislation that included time limits that said if it was acted on by the end of regular session, it would have to be re-negotiated and brought back to the next session; he asked if that was still in the bill. **Ms. Tellefson** said yes, that is still part of the bill, and there were discussions about that provision at the hearings.

Commissioner Forrest asked about the effective date of the compacts and if they would not be effective until approved. **Ms. Tellefson** said yes, that's correct, so the compact could be in a state of not being approved and in a state of negotiations indefinitely. **Director Miller** said there was an amendment to the gambling statute about five years ago that created the Governor the express authority to sign gambling compacts and gave the director of the Gambling Commission the authority to negotiate the compacts. When the agency is finished negotiating, it then goes to the Commission. The Commission conducts a hearing and either sends the compact back to the director for further negotiation or on to the Governor with a recommendation. This bill would require the Senate to approve it as well before it went to the Governor. The process in place today is a very good process.

Commissioner McLaughlin asked where this developed, since the Indian nations are against it and the Gambling Commission doesn't think it's a good idea. **Ms. Tellefson** said that Senator Schow was the prime sponsor and, in the initial hearings, he expressed some concerns over the Senate or the Legislature not having as much of an impact on the compact approval process as he thought they should. **Acting Chairman Ludwig** asked if it was created as a result of the Quinault tribal-state compact action; **Ms. Tellefson** said that was also part of the discussion in that the Legislature had made a recommendation that was not ultimately followed. **Director Miller** said no one wanted to vote on this in 1992, because it was pretty clear that the Legislature would never pass a compact. Then-Senator Hayner wrote the bill and then-Speaker of the House Joe King worked with the agency to put the present process in place. No one wanted to vote on the compacts and now they want a little more say. The way this bill is written, the agency could negotiate all year, have an election in November that changes the makeup of the Senate, a compact could go to the Legislature without them taking any action or giving any guidance, and then the entire process begins again. Some have even questioned the legality of the bill because it has no effect in that compacts could just sit in limbo. It seems to be just a statement against the compacts and what happened with the Quinault agreement. Maybe it is a message to put the breaks on a little bit. The Legislature has had its opportunity for input.

Ms. Tellefson said SB 5330 is the golfing sweepstakes bill that approves a third type of golfing sweepstakes commonly known as a Calcutta. These activities are under statute but not regulated by rule. This bill passed the House.

Ms. Tellefson said SB 5560, social card games, passed the House. It allows card room operators to conduct house banked card games as well as player-supported bank card games. This is on its way to the Governor's desk. **Director Miller** said the vote was something like 97-1 in the House and 44-3 in the Senate, so it had real bipartisan support.

Ms. Tellefson said SB 5422, professional gambling, is also on its way to the Governor. It is a clarification of the professional gambling statute. There were prosecutors in Spokane and King counties who had declined prosecution in some cases due to the lack of clarity in the statute. It also provides that someone participating in an illegal card games is also engaging in professional gambling.

ESSB 5762, Horse Racing, was initiated by the Horse Racing Commission and the horse racing industry. It allows race tracks within the state of Washington to bring in out of state signals, but does not allow these signals to be simulcast from the in-state tracks to off-track betting facilities. The initial bill stated specifically that tribal-state compacts would not be amended as a result of this bill, but the was substituted and passed out of committee without that language and with a clarification that the basis for the bill was to preserve the horse racing and equine industry, promote fan attendance at the racing facilities, and to prohibit the expansion of gambling beyond that which is already allowed. So, the language was modified slightly but still has the same intent. This bill has passed.

Acting Chairman Ludwig said this bill passed the House yesterday, contrary to what the P-I editorial said. **Director Miller** said yes, it passed the House and is on its way back to the Senate because it was amended. There is an article in today's sports section of the Seattle P-I.

RULES

COMMERCIAL AMUSEMENT GAMES

Ms. Tellefson said these six rules are up for final action. There are estimates of agency impacts under tab number 3 in handout packet number 1. **Commissioner McLaughlin** said she didn't think this group of rules would have a lot of impact; **Ms. Tellefson** said this group of rules won't have much impact. Assistant Director Winslow put this packet of rules together. These rules make minor changes to the amusement game rules; it defines what school-age minors are, authorizes an additional location for amusement games to be located in department stores such as Walmart or Kmart-type stores. She referred to section 3(f), where there is a change. There was some discussion at the February Commission meeting about an error in the description of what the rule does. The amended version says, in section 2 (c) states that the operator simply has to notify players as to where change service is located. The staff recommends adoption of the entire package and that this amendment be adopted.

Acting Chairman Ludwig said this amendment will have to be adoption prior to moving on to the vote on the entire package. He asked if there were any comments or questions from the public.

Commissioner McLaughlin asked about WAC 230-02-520. She said school-age minors are defined as persons who are at least six years old and have not reached the age of 18. She said she went with her six-year-old grandson to an arcade and found that these games can be very costly. If she wasn't there with her grandson, she asked who would be supervising. **Mr. Bishop** said they must have supervisors. **Director Miller** asked what kind of facility it was; **Commissioner McLaughlin** said it was in a restaurant. **Director Miller** said it could be the waiter or the cashier or someone on premise. He said these changes are to clarify what is meant by school-age minor. **Commissioner McLaughlin** said six years old is very young. **Acting Chairman Ludwig** said that children five and under and not included in that group and can play. **Director Miller** said that, for the most part, the children are under the supervision of their parents. The intent was, from the staff's standpoint, is that they've seen certain malls and arcades have problems deciding who is eligible to play. **Commissioner McLaughlin** pointed out that, normally, six-year-olds do not walk around with identification stating their age. **Director Miller** said the changes were at the request of the industry. **Ms. Tellefson** said the intent was to clarify when children can and cannot play. They are not supposed to play during school hours, but younger children may come in with their parents during the day and want to play.

Mr. Bishop explained that the law itself, the RCW, uses the term of art "school age children" and has certain requirements and restrictions as to where games that allow school age children can be located, so there has to be a definition. Some kids might be out of school when they are 17, or even 16 or younger. There is also the issue of when go they become school age children. He said the industry asked for specific guidelines so there is a standard to go by.

Dale Walker, Music Vend Distributing, said this request came about after a group of preschoolers came in to play miniature golf, and there was a complaint that they were allowing school-age children to play. Everyone of those children was under the age of five. That seemed unfair that a preschool could not bring in a group to play and have lunch and go back to preschool. They are not asking for school age children to be allowed to play, but before they are of school age, they should be allowed to play.

Acting Chairman Ludwig said the clarification is very helpful to the industry, then. **Mr. Walker** said it is slightly helpful. About a year ago at an amusement game industry meeting, they decided to go through all the amusement game rules and pick out the ones where there is a problem and fix them all at once. This is one of the small problems they felt needed to be fixed.

Commissioner McLaughlin said she had read this differently and thought those children under age six would not be allowed to play at all, but the rule really says that group wouldn't be considered school-age children because they are younger than school age and, therefore, can play. **Director Miller** said that some of these facilities are gaming centers where they have birthday parties and bring kids who are not in school yet. The problem became that the intent had been to stop kids who were in school from coming in to play during school hours, but then the question is what about those children who are not in school yet and come in with their parents. The original intent was not to stop that.

Acting Chairman Ludwig asked if there were any questions or comments; no one came forward. He said the vote on the amendment would be first.

Commissioner Forrest moved to adopt the proposed amendment; **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.*

Commissioner McLaughlin moved for approval of the complete package of items 3(a) through (f) as amended; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

COMMERCIAL AMUSEMENT GAME PETITION

Ms. Tellefson said this group of rules, item 4 (a) and (b) are also up for final action today. These were originally set aside as a petition that included item 3 originally. The staff worked with the petitioners to come up with versions that staff proposed in item 3. These two rules in item 4 were set aside as policy calls and are both before the Legislature. Item 4(a) is no longer alive in the Legislature and will not be going forward in bill form. Item 4 (a) allows for exclusive agreements in certain instances. The language has been amended after some discussion at the last Commission meeting. Both versions of this rule are found in the handout packet. The discussion centered around the fact that the original version contained contract language in the rule itself saying that the agreements could be renewed automatically. Chairman Heavey felt that was more appropriate for the contract and not the rule. The amended version has taken out that provision. It also added the change that the Commission approve all exclusive agreements. She asked if the intent of the Commission was to approve each and every contract or if they meant for the staff to approve the specific contracts.

Acting Chairman Ludwig asked what the staff's recommendation is; **Ms. Tellefson** said it's up to the commissioners as to how they want to handle these; it's a policy call as to whether they want to have these agreements come before the actual Commission.

Commissioner Forrest asked if this is going to be common that there would be lots of these to approve. **Mr. Bishop** said the industry would probably have the best idea as to how many agreements there may be.

Mr. Walker said that every Class "A" licensee has some sort of written agreement with the equipment operator. He doesn't know how many will be willing to sign an exclusive agreement. Each of those agreements are now approved or disapproved by Commission staff. **Commissioner McLaughlin** said she recalled that there aren't that many licensees and the commissioners presently approve all the licenses, changes, and withdrawals now as a package. She doesn't think it would be that big of a deal.

Mr. Bishop said there are approximately 300 Class "A" locations. **Commissioner McLaughlin** said she did not

mean the commissioners would approve each contract application, but rather take them in a group like the others. **Mr. Bishop** said that each contract could be very different and they would need to be looked at individually. **Mr. Walker** said that each of those contracts may also change over time. Upon the expiration of a contract, a Class "A" licensee may decide to use a different supplier, which would require a new agreement each time.

Acting Chairman Ludwig asked what Mr. Walker's own personal feeling is about this proposed amendment; **Mr. Walker** said the exclusive agreement should be subject to approval, but he doesn't think the process should change from what it is now; **Commissioner McLaughlin** asked what the process is now. **Mr. Walker** said he now fills out an agreement between himself and the Class "A" licensee, then that agreement is approved or disapproved by staff. The only thing the industry is requesting is to add a clause to that agreement to allow an exclusive agreement.

Acting Chairman Ludwig said the point being discussed now is the part of the amendment that says that provision should be subject to approval of the Commission. He asked if that means the staff or the actual Commission. **Director Miller** said that means it comes before the actual Commission, but in the past, the Commission has delegated that to the staff or to the director. It just depends on how many things the commissioners want to come before them. In the past, commissioners didn't want anything but major issues before them. It's really the call of the commissioners.

Director Miller said the whole issue of exclusivity agreements has come about due to new and changing technology. The machines now are very expensive and cost \$5-7,000, if not more. They also make their own merchandise to put in the machines. Under the current technical rule, they can't sell their own plush in their own machines with agreements. The staff feels these agreements are necessary for this segment of the industry. When it comes to the gambling segment of the industry, there are some exclusivity issues being looked at for approval, but not overwhelming changes, because that's a different arena. The commissioners may not want to have to look at such a large number of agreements individually.

Commissioner Forrest said he is not concerned about the volume of work, but to review each one would be fairly complicated and, once the policy perimeters are set, he doesn't know if there's a need to see each one because he doesn't foresee the Commission approving one and disapproving another after they meet those perimeters. He asked how much variation the staff foresees. **Mr. Bishop** said as a part of every application, the contracts come forward for review to see if the agreement includes or omits the restrictions. The staff would be looking at these particular contracts to see if they have an exclusivity clause and, if they so, they would be limited to three years. He sees it as being a routine thing.

Acting Chairman Ludwig said he senses from the other commissioners and from what he feels that the present language may not be what the Commission wants: "approval by the commission." He asked if an oral amendment could be made to change it by deleting the word "commission" and inserting the word "director." **Mr. McCoy** said yes; **Director Miller** said yes. He said that is pretty consistent with most of these minimal contract situations. **Commissioner McLaughlin** pointed out that these are not contracts with the Commission itself, anyway. **Mr. Bishop** said the entire last sentence could be omitted, because they will be reviewed under the normal license review process.

Commissioner Forrest suggested that there is nothing to prevent the staff from bringing only the ones with special circumstances before the Commission. There may be a need for some further revisions of the policy once it gets going, but it seems like it would eventually become routine. Placing it on the agency would not serve any great purpose. He is inclined to delete that provision, the entire sentence under both item three and four and leave it up to the staff as to which questions come forward.

Commissioner Forrest asked Mr. Walker about how this works. If an operator has the machine, do they have to buy their products. **Director Miller** said it also has to do with keeping the machine there for a certain period of time. **Commissioner Forrest** said he has no sense as to the relative value of the machine and services and supplies that would be covered in such an exclusive agreement. **Mr. Walker** said that, typically, he will go and buy a machine or bank of machines that may cost anywhere from \$5-15,000. He puts a machine in another person's location and will usually provide the merchandise for that particular machine, although this provision does not cover that part. If the operator wants to buy his merchandise somewhere else, that's fine. What is shared is the revenue brought in by that machine. Most of the time, he buys the merchandise for the licensee because it's

easier that way, and as merchandise is won by customers, they share the cost of the merchandise as it goes out. They deduct the cost of the paid-out merchandise from the gross sales and then revenue-share the net sales. If, for some reason, the location owner feels he can get a better deal on merchandise on his own, that's fine. As an industry, they have no problem with that.

Commissioner Forrest asked about the cost of the machine affecting the cost of the merchandise and if there is a relationship. He wants to get a sense of the relationship between the machine purchase and the other services he will be supplying. **Mr. Walker** said the machine types vary from location to location. **Commissioner Forrest** said what he is getting at is which is the dog and which is the tail. **Mr. Walker** said the machine is the dog; it is the main expense and service of that machine if it breaks down. The problem with having a \$10,000 machine and setting it in a certain location is that right now, someone else can come along and set their machine right next to his. Then the money is cut in half. **Commissioner Forrest** said he recalls the problem years ago with IBM and service to their machines. **Mr. Walker** said there is no service cost when he visits a location to service a machine. They are not gauging a location for an exclusive service agreement.

Commissioner McLaughlin asked if what they're doing is leasing the space; **Mr. Walker** said it could be called that; what the location does is give some square footage and they share the revenues from the machine.

Acting Chairman Ludwig asked if there were any other questions or comments from the public or licensees on this; no one came forward.

Commissioner Forrest asked if that sentence is stricken, does the staff have the right to review the contracts, or should something else be added when the sentence is taken out. **Mr. Bishop** said there are provisions that require, even on the application, all contracts. **Director Miller** said he is concerned that the requirement may technically be just to file the contracts and not actually approve them. **Mr. Bishop** said the reason they contracts are required is to make sure they are in accordance with the rules. **Director Miller** said this would just do away with the reviewing. **Mr. Bishop** said, quite frankly, he is just trying to get rid of work. If a contract is submitted and approval is required, then he has to put something in writing for each one saying he has approved it. **Director Miller** said then if they were just required to be on file, then that would be sufficient.

Commissioner McLaughlin said now she is wondering if she should make this amendment.

Commissioner Forrest said that if the staff is satisfied with just striking the sentence, that's fine. **Director Miller** said he needs to point out that there is an identical rule coming up regarding pull tab dispensers, which was discussed yesterday. A new technology has been developed with a patent and has tickets specifically for these machines. Technically now, they cannot have an exclusively agreement to sell their tickets for their machines, but without them, the machines won't work. The rule coming up would allow such agreements and it gives the director the authority to approve those such agreements. In the amusement game area, there doesn't need to be as much authority, but when it comes to gambling devices, they need to be looked at more closely by the director.

Rob Saucier, Mars Hotel in Spokane, said they were just recently went through the process of filing their contract. Exclusive contracts are common in the business world. He understands the concern that exclusive agreements have the possibility of unduly influencing a licensee. By filing the contracts as they do now, all this says is that the distributor has a right to have an exclusive arrangement. As a licensee, if they didn't have to have exclusive agreements, they would love it. But in the business world, he said it's appropriate. The second thing regarding the statute, in terms of whether the Class "A" license should be approved, all licenses must be approved by the Commission, which is what the list of licenses approved at each meeting includes. That terminology probably must stay and there must be three affirmative votes to approve a license. This system seems to be working and the only issue now is the exclusivity language for contracts.

Acting Chairman Ludwig asked if he agrees that amusement games don't pose as great of a risk as other forms of gambling; less danger of too much economic muscle. **Mr. Saucier** said he agrees. He gave an example of a bill in the Legislature that was called the "bunny bill," which failed. It had to do with whether or not people could pick up stuffed bunny rabbits with cranes. He said there is too much time being spent on some of this. **Director Miller** said that was a bill related to crane games and he concurs with what Mr. Saucier said about the bill. The concern of the WSGC staff is making sure that amusement games are fair to the player. There is no real public threat with moving away from what was done in the past. When it comes to gambling devices, there should be

more control, but still, reasonable control.

Commissioner Forrest moved to strike the last sentence of section three and four of the proposed amendment; **Commissioner McLaughlin** seconded the motion to amend the section of the amendment. *Vote taken; motion carried with three aye votes.*

Commissioner McLaughlin moved to adopt item 4(a) as amended; **Commissioner Forrest** seconded the motion; *vote taken; motion carried with three aye votes.*

Commissioner McLaughlin moved to adopt item 4(a) for final action; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

Acting Chairman Ludwig noted that this second group of rules, item 4(b), is before the Legislature. **Commissioner McLaughlin** said she'd like this deferred to a later agenda after the Legislature has adjourned. **Acting Chairman Ludwig** noted that the session should be completed in time for the May Commission meeting.

Director Miller said this is a policy change that would allow the operator to offer higher prizes in redemption games. Games are played in places such as arcades and tickets are accumulated the more the customer plays the games. The accumulated tickets can be redeemed for prizes, which are presently limited to \$100. The change would increase the limit to \$500. It also allows wagers of \$1 instead of the present 50-cent limit. He agrees they would probably want to wait to see what the Legislature does.

Commissioner McLaughlin made the motion to hold this item over until the May meeting. **Commissioner Forrest** seconded Commissioner McLaughlin's motion to hold this over. *Vote taken; motion carried with three aye votes.*

BINGO GIFT CERTIFICATES

Ms. Tellefson said this is an amendment up for final action today. It clarifies that bingo gift certificates can be offered up to four times a year and may not exceed \$40 in U.S. currency. This rule has been discussed with the bingo study committee and the staff recommends final adoption of this rule.

Acting Chairman Ludwig called for discussion and public comment; no one had any comments.

Commissioner McLaughlin moved to adopt this rule; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

Ms. Tellefson noted that item 6 has been withdrawn at the request of the petitioner. **Acting Chairman Ludwig** said it was up for possible final action and asked who filed the petition to amend raffle rules. **Ms. Tellefson** said it was filed and withdrawn by Moneyman Fund Raising, the petitioner. Staff does not object to the withdrawal.

SALE OF RAFFLE TICKETS BY NON-MEMBERS

Ms. Tellefson said this is up for further discussion today, and there are two versions of the rule in the commissioner's packets. The rule was restructured to define what members of an organization are for purposes of selling raffle tickets. It allows that individuals under the supervision of members are considered members for limited purposes. The WSGC staff has discussed this amendment with Jon McCoy, the assistant attorney general, and he has indicated that he feels that this is consistent with the statute. The staff requests that this version be filed for further discussion.

Commissioner Forrest moved to file this amendment for further discussion. **Commissioner McLaughlin** seconded the motion to file this for further discussion. **Acting Chairman Ludwig** said this will be on the May agenda for further discussion.

Commissioner Forrest asked why isn't it just sufficient to simply say that non-members under the supervision of WSGC Meeting, Blaine

members can sell, rather than redefining members. **Ms. Tellefson** said this particular part of the rule only applies to amusement games and raffles, so it could be restructured, but there are other definitions of members, for instance, to qualify for a license.

Acting Chairman Ludwig asked about the first or second sentence of paragraph (1) where it states no other person than a bona fide member and lists employees and others that are considered as members; he asked if he's reading this correctly. **Ms. Tellefson** said yes. **Mr. Bishop** pointed out that it is only for purposes of selling tickets; not for qualifying for licensure or other requirements. **Mr. McCoy** referred to the part about a bona fide member taking part in the management or operation of the game, or a raffle. The question was whether sale was the operation of the game or not. He has since come to believe the sale itself is not operation of the raffle; it's the management of the sale that has to be conducted by a bona fide member. And this language was drafted originally to get past the problem he had raised. The idea behind the rule is to allow a little more flexibility in the conduct of the raffle because, in the past, all the sales had to be conducted only by members. There are some organizations that have a lot of other people involved who are technically not members.

Commissioner Forrest said that happens all the time, for instance, at a restaurant where the owner is a member but the cashier is selling the raffle tickets. **Mr. Bishop** said that's exactly the reason for this rule change. **Commissioner Forrest** said he doesn't like the things where there's somebody who's not a member but he's a member for this purpose, rather than just saying that he's not a member, but he's authorized to do this act. **Director Miller** said that it comes down to the statute and the way to make a good policy call by allowing it just for the purpose of selling tickets. In order to qualify as a charitable organization, there must presently be at least 15 active members and what non-members can do is very limited. The number of required members will change to seven if and when the Governor signs SB 5034.

Ms. Tellefson said this is up for further discussion.

Acting Chairman Ludwig asked if any members of the public would like to comment on this rule change. He noted that there will be another opportunity to comment at the May and June meetings. No one had comments.

PROGRESSIVE PULL TAB RULE

Ms. Tellefson said this is an amendment filed by the Commission as an emergency in February. It continues on the agenda for possible permanent adoption next month. This was the result of comments by the staff and also by the industry. It clarifies that with progressive jackpots, the jackpot ultimately be won. A series can be pulled from play, but the jackpot must be carried over to the next pull tab series put into play. This is a player protection issue. The staff recommends further discussion.

Acting Chairman Ludwig pointed out that this was discussed during yesterday's study group meetings. He asked if anyone present would like to comment; no one came forward. He said comments can also be made at the next meeting. **Commissioner Forrest** asked if there have been any complaints or problems received since the time this was put in place as an emergency. **Director Miller** said there have been no concerns raised regarding this because the product has not been put into play yet at licensed establishments. It is, however, being operated on Indian reservations. There have been no complaints regarding the adoption of the rule as an emergency.

Ms. Tellefson said there are two versions of this rule in the packet. The version in front is amended and section six was re-worded; she asked that the amended version be filed for further discussion. **Acting Chairman Ludwig** asked if she's suggesting that the emergency rule be amended; **Ms. Tellefson** said no, the change would just be to the permanent rule when it is adopted.

Commissioner McLaughlin moved to file item 8, the amendatory version of WAC 230-30-025. **Acting Chairman Ludwig** asked for clarification as to whether this would automatically become the emergency rule; **Ms. Tellefson** said no, the amendment would become part of the permanent rule if and when it is adopted. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

Director Miller noted that there could be additional changes to this next month for clarifying issues such as the WSGC Meeting, Blaine
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starting jackpot and the amount of winners in the series. Currently, 60 percent is required, but this rule has a 40 percent requirement regarding the number of winners in a series at the beginning. The staff is working with the industry to come up with some language that is feasible. This is a very complex process and a new issue for both the staff and the industry. The change will just be a clarification.

Commissioner Forrest called the Commission's attention to a grammatical error on WAC 230-12-230, which he has already told the staff about. He read it how the second line now reads, "any agreement expressly or implied," and it should be "express or implied." **Director Miller** said this error has been there for 21 years or so, and it is good to finally have it corrected. **Commissioner Forrest** moved for this correction to be made. **Acting Chairman Ludwig** said that since this is a grammatical error, no vote is necessary, so the correction will be made. He called for any further comment; no one had comments.

PULL TAB RULES and REPEAL OF PULL TAB RULES

Ms. Tellefson said this is a large package of 30 rules up for discussion and possible filing. Of these, 19 are either new or amended rules and 11 are repealers. The staff went through and did a clean-up of the pull tab rules section to make corrections to outdated provisions, improper references to outdated WACs, etc. The staff, at this point, is asking that this proposal be filed for further discussion.

Acting Chairman Ludwig asked if there were comments regarding the possible filing of this packet; no one came forward from the public.

Commissioner McLaughlin why, if these are all pull tab rules, is there a reference to card games and to fund raising events. **Ms. Tellefson** said that's in the fee section and is just an improper reference to a WAC.

Commissioner Forrest asked what a flare is; **Ms. Tellefson** said the flare is a poster that sits next to a pull tab game and tells the players how many prizes and what level of prizes are left in a pull tab game. The prizes are marked off as the they are won, so the player knows what they are playing for, which is unique to Washington. She said that, in other states, they have the flares but not all states require them to mark off the prizes as they are won.

Rob Saucier, with the Mars Hotel and representing the industry, said his group definitely supports these changes. He said a lot of these rules have not been addressed in a long time and need to be cleaned up. Regarding the flares, he would like to bring up the issue of merchandise flares. In the past, an operator has been allowed to design their own flare when there's merchandise as a prize, or the distributor could design a flare, and that had to be attached to the original flare and meet other requirements as well. His group had a board meeting yesterday after the workshop session, and a lot of the members are concerned about changing this. They are hopeful that, over the next month or two, if this does get filed, that new language can be added to address their ability to keep doing this. He said they'd like to bring in some actual flares and substitute flares to show the Commission what they are talking about.

Mr. Saucier said the group has another comment that they have not yet discussed with the director or with the staff regarding WAC 230-30-070 and 230-30-080, items (k) and (m). There are two events that pertain to this coming up very recently. He learned this morning that the HB 1404, which changes pull tabs to \$1, is on the flash calendar this morning in the Senate. If it passed, it goes to the Governor. Assuming the Governor signs this bill, it will become effective June 27, which 60 days after the Legislature adjourns. Today marks the last opportunity to file anything that would become effective by July 1, 1997. If they wait until next month, unless the Commission chooses to shorten that time frame, those rules would become effective January 1, 1998.

Acting Chairman Ludwig said he thought bills become effective 90 days following session. **Director Miller** said these rules will not be effective until mid-July, anyway. **Mr. Saucier** said that once a bill is delivered to the Governor's Office, the Governor has five days to sign or veto it or do nothing, so the timing is close for getting a rule change on the agenda in time for a July 1 effective date.

Mr. Saucier said the Legislature, by statute, has required that the Commission require record keeping of all prizes of \$20 or more, which has been on the books since 1973. The Legislature has now changed that with the passage of this bill, if it passes, to turn that over to the Commission. No longer will there be a \$20 limitation, but it will be determined by the Commission. His group is asking that there be a new threshold beyond \$20, such as \$50 or whatever level the staff feels comfortable with.

Acting Chairman Ludwig suggested filing what the staff has come up with and then possibly add an amendment at the next meeting. **Director Miller** said he would like to file it as-is and then discuss the changes with the industry groups. This is a major issue for the staff as far as record keeping requirements. In the commercial arena, the staff has cut back a lot on time spent and he wants to be sure it is explored carefully as to how far to go in removing requirements. He cannot promise an amendment by the May meeting. **Mr. Saucier** said he wants to make sure this wouldn't create too substantial of a change that would result in a new filing being required.

Mr. Saucier said that his next comment is with regard to the limitation of the prize, WAC 230-30-080, item (m). Currently they are limited to \$500 for cash prizes and \$500 expended for merchandise prizes. Another provision of 1404 is to allow for the pull tab play per chance to increase in price from 50 cents to a \$1 maximum, so his group feels it is appropriate to request that the prize offered be increased from \$500 to \$1,000 for both merchandise and cash. He said it is not a substantial change in this rule and does not require re-filing. **Director Miller** said he feels doubling the amount of the prize is a substantive change and a significant policy call. The Commission has always been very protective of raising the limits on prizes for pull tabs, which has been done very gradually. The agency has agreed with raising the jackpots with progressives but with a restrictive and much more controlled environment. There is quite a greater standard of control on those games and greater accountability. He would like to discuss this first with the industry prior to going forward, because the higher the prize under normal controls, the greater the incentive to manipulate and tamper. He feels this must be debated much more thoroughly.

Acting Chairman Ludwig asked if this affects the manufacture of the punchboards and pull tabs other than the flare setting forth the prize. **Mr. Saucier** said it probably does, and he's noticed a lot of the tickets no, for extra security, are actually showing what the prize amounts are in the ticket. Yes, it will change the manufacturing of the ticket as well as the flare. **Director Miller** said there is already a market and an inventory out there for \$1,000 and above because the tribal operations are utilizing them. The last time prizes were raised, which was from \$200 or \$250 to \$500 was about two years ago.

Commissioner McLaughlin asked why anyone would pay a dollar for a pull tab if there isn't a bigger prize; **Director Miller** said there will be more prizes offered on the flare if the pull tabs cost \$1. It's a great prize pool. The question becomes, how comfortable does the Commission feel with allowing higher prizes before it becomes a regulatory concern. He pointed out that the games exist in the tribal arena, but it's a matter of policy as to whether the Commission wants to go that far. The prizes are going higher with progressives, but that is a differently controlled environment from the manufacturer all the way through to the operator.

Acting Chairman Ludwig asked what the effect of filing these would have if the changes would prejudice changes. **Director Miller** said it could be pushed back a month or two and, if the Commission chooses to, it could be filed with an amendment of \$1,000 prize, which would protect their position. The Commission can make the final call in June after the staff has had time to determine its position. The staff is not prepared to support that prize level today. **Acting Chairman Ludwig** asked if it is item (m); **Director Miller** said yes.

Mr. Saucier said he agrees with Director Miller's suggestion as a very viable solution. **Director Miller** clarified that the change would be on page 2 of WAC 230-30-080, 2(a), "Offers a single prize that exceeds: (a) Five hundred dollars in cash," five hundred would be changed to "One thousand."

Acting Chairman Ludwig asked if that amendment should be made before this is filed; **Director Miller** said the motion could be made to file it "as amended."

Mr. Bishop said that he'd like to speak with Director Miller for a moment.

Acting Chairman Ludwig called for a ten-minute break.

**** BREAK ****

Acting Chairman Ludwig said that during the short break, the director and deputy had an opportunity to discuss this possible amendment. **Director Miller** said they propose that the packet be filed with the appropriate language amended to say "One thousand" as opposed to "Five hundred," with a caveat that, in the event that the staff ultimately agrees on that, that it be discussed over a period of months because it is a significant policy change. There would also have to be an amendment to the rule regarding stamps that are attached to these games, because the staff believes higher prizes could result in higher quality control being necessary. The staff is not agreeing with this amount, but has no problem with filing this for further discussion. The impacts need to be studied further. With a packet this size, he expects quite a few more comments in the future, which could cause delays. It may be August or so before this could go forward.

Commissioner McLaughlin asked about changes to WAC 230-30-070; changing recordkeeping requirements from \$20 prizes to \$50 prizes; **Director Miller** said the staff has no problem, but this is kind of a backward way of changing the rule. If the statute does not pass the Legislature, then the issue is mute. The staff has greater concern with changing record keeping requirements, because that is the way to trace forgeries of winners. A lot of record keeping requirements have been removed, but the farther they are cut back, the ability to find problems is weakened. **Commissioner McLaughlin** noted that the Commission can always take it back later.

Commissioner McLaughlin moved to amend WAC 230-30-070 under the record of winners in number 7, the "cash prize of over \$20" to "...over \$50," and in any other place where it shows this rule. **Commissioner Forrest** seconded the motion. **Acting Chairman Ludwig** stated the motion as changing the \$20 minimum record requirement to \$50. He asked for further comments; **Ms. Tellefson** said the reference comes up also in the next rule, item, which is item 9(m). *Vote taken on the amendment; motion carried with three aye votes..*

Ms. Tellefson noted that Rob Saucier pointed out that the reference to prize limits of \$500 is also made in 2 (b) where it references merchandise prizes, so they would like that changed as well. **Commissioner McLaughlin** moved to amend item number 9 (m), WAC 230-30-080, under 2(a) and 2(b), change the reference to "Five hundred" for cash and merchandise to "One thousand." **Commissioner Forrest** seconded the motion to amend the maximum amount for a prize from \$500 to \$1,000 in item 2(a) and 2(b). **Acting Chairman Ludwig** asked if there were further comments; there were none. *Vote taken; motion carried with three aye votes.*

Commissioner McLaughlin moved to file the entire packet of items 9 (a) through 9 (dd) for further discussion; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

BINGO NET INCOME VARIANCE PROCEDURES

Ms. Tellefson said this group of rules has been discussed with the bingo task force and are a follow up to rules that were passed and became effective in January 1997. These have to do with the procedures used when a license could be limited for failure to meet net income requirements. It also puts the procedural process in place for requesting a variance to those requirements from the director. There are also substitutes to items 10 (b), (c) and (d), which came about after discussions with licensees just a couple of days ago. They are minor changes and are provided on the back table for the public. Item 10 (g) is an additional rule that the staff requests be filed. This is an amendment to WAC 230-20-242, which has to do with raffles or drawings conducted in conjunction with bingo. This ensures that the net income from those raffles can be included in the net return calculations for bingo. At this time, the staff requests filing of this package, item 10 (a) through (g), with the substitution of (b), (c) and (d).

Acting Chairman Ludwig asked if there was any objection to the substitution of (b), (c) and (d), and the addition of 10 (g); there were no objections. He called for the motion for filing and further discussion.

Commissioner Forrest asked if there was any significant change in policy with these substitutions. **Ms. Tellefson** said no, not in the substitutions; they are small changes that assist the industry. The package as a whole puts a procedure in place to ensure due process is allowed for licensees who ask the director for a variance from the net return requirements. It will put a systematic procedure into effect and provide for more consistency in

the future.

Acting Chairman Ludwig asked if there were any comments from the public regarding the possible filing of this package as amended; no one came forward.

Commissioner McLaughlin moved to file 10 (a) through 10 (g) for further discussion; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes.*

EXCLUSIVITY AGREEMENTS

Ms. Tellefson said this may look familiar because it was on the agenda earlier with respect to amusement games.

Acting Chairman Ludwig said this is the package that Director Miller was referring to that involves new technology.

Director Miller said it involves the legal right to sell products that go with a machine. An example is when a licensee develops a new technology and new software that goes with their machine. They would have the right to sell their own tickets for their machines. The staff would like to have this filed for further discussion.

Acting Chairman Ludwig pointed out that this one uses the language "approval by the director." **Director Miller** said he is recommending that these be approved by the director, because once it gets into gambling equipment and related supplies, there needs to be greater control. But it is completely up to the commissioners as to whether they want to approve these themselves. He said there aren't going to be that many coming forward with new technology.

Acting Chairman Ludwig called for any comments; no one had any.

Commissioner Forrest moved to file these for further discussion; **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.*

CARD ROOM ENHANCEMENT CONTRACTS

- a) Kenmore Lanes, Bothell
- b) Paradise Village Bowl, Tacoma (*conditional*)
- c) 21 Club, Seattle
- d) El Camino, Bremerton
- e) The Hideaway, Shoreline
- f) Cliff's Tavern, Shoreline

Ms. Tellefson said this is a group of card room contracts; four of which can be found in handout packet number one, under tab number 2.

Acting Chairman Ludwig asked how many of these contracts there are; **Ms. Winslow** said there are currently 17, so this would bring it to a total of 23. **Commissioner McLaughlin** said this program must be going well if there are so many operators interested in the contract program. **Ms. Winslow** said, yes, this program is working extremely well. **Ms. Tellefson** said this program was established after the Legislature passed a bill last year that would allow card room operators to be the custodian of jackpots and allowed them to have up to 15 tables at the discretion of the Commission. It also allowed for alternative collection of fees, such as taking a rake as opposed to simply paying a fee to sit in a chair. By rule, the Commission decided there would be an 18-month test period, which has resulted in contracts with card room operators who are interested in participating. This has given the staff an opportunity to study the impacts of these changes including security and surveillance issues for different levels of activity. The staff will be coming forward in September with a more encompassing package, which will probably be up for final adoption in January 1998.

Ms. Tellefson said the first contract is for Paradise Village Bowl, and they have asked for just one jackpot. They are not asking for more tables or any different methods for collecting fees. They have paid their deposit. **Director Miller** requested conditional approval of this card room contract because there is a pending investigation with this licensee. In the event that the investigation reveals action will be taken by the agency that would warrant removal from the program, he wants it on the record that that is what he would do. If the action taken does not warrant removal from the program, they will be allowed to continue.

Acting Chairman Ludwig asked where this licensee is located; **Ms. Tellefson** said they are located in Tacoma.

Ms. Tellefson said the 21 Club is located in south Seattle. The location was previously approved by the Commission but is before the Commission again due to a change in ownership. The new owner is still employing the same card room manager and the same card room employees. One of the requirements to join the test is that the operator must have been operating for at least six months. In discussions with this particular licensee, the staff proposes to the Commission that the six month requirement be waived because of the fact that the same employees run the card room. There is no increase in scope, they just have three additional tables.

Acting Chairman Ludwig asked if this one requires any special action other than approval of the contract; **Ms. Tellefson** answered no, just approval of the contract.

Ms. Tellefson said that Kenmore Lanes is located in Bothell. They are asking for three additional tables for a total of eight. They want to use a rake on four of the tables and employ three jackpot schemes. They have paid their deposit.

The El Camino is located in Bremerton and they have requested only one jackpot scheme and no other changes. They have also submitted their deposit.

Ms. Tellefson said the next two contracts are located behind tab number 2. The first is for the Hideaway, located in Shoreline, which is requesting two additional tables for a total of seven. They want to use alternative fee collection methods on two tables and one jackpot scheme. They have also submitted their deposit.

The final card room contract before the Commission is for Cliff's Tavern and Card Room, which is also located in Shoreline. They are asking only for an alternative method for collection of fees, a rake on one table. They have also paid their deposit.

The staff recommends approval of all these contracts with the exception of Paradise Village Bowl, for which they recommend for a conditional approval.

Acting Chairman Ludwig said the Paradise Village Bowl contract will be taken separately.

Commissioner McLaughlin moved for conditional approval of the Paradise Village Bowl contract. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with three aye votes*

Acting Chairman Ludwig asked if the card room enhancement program has a specific provision for conditional approval, or is the record of this meeting adequate; **Ms. Tellefson** said the record of the indication that this is conditional approval should be adequate. **Director Miller** said the reason for conditional approval is to give the licensee notice that, since there is an on-going investigation, it could affect their ability to participate. He said the Commission could probably just add a note saying this is conditional when he signs the contract.

Commissioner Forrest asked if the condition is just that there be no violation. **Director Miller** said that if this investigation turns up a significant problem that warrants charges and a concern that they not participate in the contract, he wants to pull their contract. In order to implement the contract, it costs the licensee a lot of money, so he wants them to be aware of the possibility. If they chose to go forward, they do so at their own risk. The conditional is for past violations, not potential future violations. **Commissioner Forrest** said he would think a conditional approval in itself doesn't really explain it and maybe this contract should be conditioned on the outcome of the present investigation. **Director Miller** said that would be more correct, and the staff will give this

licensee a written letter to that affect, advising them of the conditional.

Acting Chairman Ludwig asked for the proper language and suggested "outcome of pending investigation."

George Teeny, owner of the New Phoenix and the Last Frontier in La Center, Washington, said he doesn't know about the Paradise Village Bowl situation; **Acting Chairman Ludwig** said the commissioners don't either. **Mr. Teeny** said if a licensee has outstanding charges against them, he's not sure they should be entitled to be part of this program. **Director Miller** said the determination of who can participate in the program is on where they stand now, and if they are currently undergoing due process, the staff does not want to necessarily hold that against them. The conditional here is a pending investigation that could affect their license. If that's the outcome, they will be pulled out of the program and not allowed to go forward. It depends on the severity of the charges. He noted that there was a licensee, Darrell Lee, whose establishment is near Mr. Teeny's, who had pending charges and that case has just been settled. **Mr. McCoy** confirmed that the case has been settled. **Mr. Teeny** said that answers his question, but for future reference, if someone has outstanding charges, is it fair that they be allowed to enter into this program when there are other licensees without pending charges but who may be charged and they are being kept out of the program.

Acting Chairman Ludwig said they understand his concerns; however, the Commission is obligated to pass or deny the contracts brought forward based on the recommendation before them now. It may prejudice them to know too much about the charges because they may eventually come before the Commission for a hearing. **Commissioner McLaughlin** said they are innocent until proven guilty. **Acting Chairman Ludwig** said the rest of the contracts can be taken as a package.

Commissioner Forrest moved for approval of the remaining five contracts; **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.*

Acting Chairman Ludwig called for agenda item 13; **Ms. Tellefson** said item 13 was the Puyallup Phase II Review, which has been withdrawn for this month but may be on the May agenda.

COMMENTS FROM PUBLIC OR PUBLIC OFFICIALS OR BOTH/GENERAL DISCUSSION

Acting Chairman Ludwig asked if there is anyone in the audience who wants to bring any items forward at this time.

Gary Hanson, Executive Director, Washington State Council on Problem Gambling, said there is a bill before the Legislature that would transfer \$150,000 in funds over a two-year period from the Lottery advertising budget to the existing program in the Gambling Commission to be administered by the WSGC to the Council. Since the WSGC's program already exists, this bill does not expand government. He thanked the Commission and Director Miller for support on the bill. He said the two standing bills died; however, the Senate placed the measure into their version of the Senate budget. The legislation has not gone this far before, but similar legislation has been before the Legislature in past years.

The second issue he would like to discuss is the WSCPG's public service announcement, which he played for the Commission. They have been working with the state Lottery and its advertising agency to develop this PSA for television, which should be released to broadcast in May. The PSA presents the toll-free telephone number in the form of numbers coming up one at a time as they would on a slot machine. **Mr. Hanson** said this is not meant as a statement against the legality of slot machines, but it is the toll free number for the Council. **Acting Chairman Ludwig** thanked him for the presentation; **Commissioner Forrest** wished the Council luck with the legislative session.

Acting Chairman Ludwig asked if there were any other comments to come before the Commission; no one came forward.

Acting Chairman Ludwig adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant